Intermec Technologies Corp. v. Palm, Inc. Doc. 282 Att. 1

EXHIBIT B

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

CLRB HANSON INDUSTRIES, LLC d/b/a INDUSTRIAL PRINTING, and HOWARD STERN, on behalf of themselves and all others similarly situated, Plaintiffs, v. GOOGLE, INC., Defendant.	CASE NO. C 05-03649 JW **DEFENDANT GOOGLE, INC.'S REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF HOWARD STERN (SET TWO)**

PROPOUNDING PARTY: Defendant GOOGLE, INC.

RESPONDING PARTY: Plaintiff HOWARD STERN

SET NUMBER: TWO (13 – 76)

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Defendant Google, Inc. ("Defendant" or "Google") hereby demands that, no later than August 25, 2008, Plaintiff Howard Stern ("Stern") respond to the following document demands, in writing, and produce the following documents and tangible things, as set forth below. The place of production of documents shall be at the offices of Perkins Coie LLP, Four Embarcadero Center, Suite 2400, San Francisco, CA 94111-4131.

DEFINITIONS

A. As used herein, the terms "you" and "your" refer to Plaintiff Howard Stern and his agents, representatives, employees, subsidiaries, affiliates, attorneys, or others acting on his behalf.

B. As used herein, the connectives "and," "or," and "and/or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery requests all responses that might otherwise be construed to be outside of the scope.

C. As used herein, the words "person" and "persons" shall include natural persons, corporations, firms, partnerships, associations, joint adventures, trusts, and estates.

D. As used herein, the words "document" and "documents" are used in the broadest sense to include all forms of tangible expression, and include but are not limited to "writings and recordings" as defined under Rule 1001 of the Federal Rules of Evidence, and further includes, but is not limited to, each and every writing, letter, memorandum, offering document, telegram, handwritten note, periodical, pamphlet, report, evaluation, record, study, test result, working paper diary, chart, paper, graph, index, data sheet, data processing card, storage media, tape recording, electronic program and mail, or any other writing or electronically stored information however produced or reproduced.

E. As used herein, the words "all documents" means each and every document as above defined known to you and every such document that can be located or discovered by reasonable diligent efforts.

F. As used herein, the words "communication" and "communications" mean any meeting, conversation (face-to-face, telephonic, or otherwise), letter, discussion, telex message, cable, correspondence, message, tape-recorded message, electronic mail or message, voicemail message, or other occurrences in which thoughts, opinions, or information are transmitted between or among two or more persons or between or among one or more persons and any electronic, photographic, or mechanical device or devices for receiving, transmitting, or storing data or other information.

G. As used herein, the words "online advertising" mean any advertisement viewed and/or displayed via the internet.

H. As used herein, the words "offline advertising" mean any advertisement viewed and/or displayed in any medium other than the internet including, but not limited to, print, radio, television, billboard, mass transportation signage, etc.

I. As used herein, the word "Complaint" refers to the Second Amended Complaint in this action.

J. As used herein, the term "Agreement" refers to the contract you claim you entered into with Google to advertise on Google's AdWords program, which the Court in this action has found to include the Google, Inc. AdWords Program Terms and Conditions, Frequently Asked Questions, and the terms of each advertising campaign submitted or modified by the Plaintiffs in this action.

K. As used herein, the words "your website" shall mean and refer to all websites located at or below the second-level domains http://www.homeworksolvers.net, and all other websites which are operated by you or on your behalf, including any website at which orders may be placed for any of your products.

L. As used herein, the words "the AdWords website" shall mean and refer to all websites located at or below the second-level domain http://adwords.google.com.

INSTRUCTIONS

A. If objection is made to part of an item or category, the part shall be specified.

B. You shall produce copies of responsive documents either as they are kept in the usual course of business or organized and labeled to correspond with the categories in the request.

C. Whenever you do not produce for inspection a document in response to a demand because of a claim of privilege or any other protection from disclosure, you shall nevertheless identify with particularity any such document by providing (i) a written list of each such document; (ii) the type of each such document (e.g., letter, memorandum, telegram, notes of telephone conversation); (iii) the date each such document was written or generated; (iv) the author of each such document; (v) each person to whom each such document is directed, addressed, sent, delivered, mailed, given, or disclosed; (vi) the person who received a copy of each such document; (vii) the general subject matter of each such document (as fully as possible without destroying the asserted privilege or other protection from disclosure); and (viii) each basis upon which you contend the contents of each such document are protected from disclosure.

D. If any documents responsive to any demand have been lost, mutilated, or destroyed, so state and set forth the general nature of each such document, the author or the originator, each addressee, all individuals designated on the document to receive a copy or otherwise known to have received a copy, the date, title, and general subject matter of each such document, the present custodian of each copy thereof, the last known address of each such custodian, and the demand(s) to which the document would have been responsive.

DOCUMENTS REQUESTED

REQUEST FOR PRODUCTION NO. 13:

All documents not previously produced that are responsive to Google's document requests served on July 17, 2006.

REQUEST FOR PRODUCTION NO. 14:

All documents that reflect, describe, relate to, or constitute the Agreement.

REQUEST FOR PRODUCTION NO. 15:

All documents constituting correspondence or communications between you and Google relating to advertising.

REQUEST FOR PRODUCTION NO. 16:

All documents constituting correspondence or communications between you and entities or individuals other than Google relating to advertising with Google or AdWords.

REQUEST FOR PRODUCTION NO. 17:

All documents constituting correspondence or communications between you and entities or individuals other than Google relating to online and/or offline advertising.

REQUEST FOR PRODUCTION NO. 18:

All documents constituting or reflecting your internal budgets, financial plans or strategies regarding online and/or offline advertising.

REQUEST FOR PRODUCTION NO. 19:

All documents constituting or reflecting your internal accounting records, ledgers, invoices, bills and/or statements, for any and all AdWords services.

REQUEST FOR PRODUCTION NO. 20:

All documents referring or relating to online and/or offline advertising you have purchased from any individual or entity other than Google.

REQUEST FOR PRODUCTION NO. 21:

All documents constituting or reflecting your internal accounting records, ledgers, invoices, bills and/or statements, for any and all online and/or offline advertising services purchased or otherwise received from entities or individuals other than Google.

REQUEST FOR PRODUCTION NO. 22:

All documents constituting, referencing, discussing, or reflecting the AdWords website.

REQUEST FOR PRODUCTION NO. 23:

All documents evidencing any and all times you visited the AdWords website.

REQUEST FOR PRODUCTION NO. 24:

All documents constituting or reflecting AdWords advertisements and/or promotional materials.

REQUEST FOR PRODUCTION NO. 25:

All documents constituting or reflecting advertisements and/or promotional materials for online and/or offline advertising services provided by entities or individuals other than Google.

REQUEST FOR PRODUCTION NO. 26:

All documents constituting or reflecting AdWords Terms and Conditions in effect at any point in time.

REQUEST FOR PRODUCTION NO. 27:

All documents constituting, referring, or relating to AdWords FAQs in effect at any point in time.

REQUEST FOR PRODUCTION NO. 28:

All documents constituting, referring, or reflecting AdWords training or tutorial materials, whether received from Google and/or any entity or individual other than Google.

REQUEST FOR PRODUCTION NO. 29:

All documents constituting, referring, or relating to AdWords training which you received from Google and/or any entity or individual other than Google.

REQUEST FOR PRODUCTION NO. 30:

All documents relating to your understanding of the term "Daily Budget" as used in connection with Google AdWords.

REQUEST FOR PRODUCTION NO. 31:

All documents referring or relating to the term "Daily Budget" as used in connection with Google AdWords.

REQUEST FOR PRODUCTION NO. 32:

All documents upon which you based any decision to purchase advertising from Google.

REQUEST FOR PRODUCTION NO. 33:

All bank and credit card statements, and other documents reflecting charges and credits from Google, not previously produced in this action.

REQUEST FOR PRODUCTION NO. 34:

All documents reflecting, describing, evidencing or relating to each of your decisions, if any, to pause and/or unpause any of your AdWords campaigns.

REQUEST FOR PRODUCTION NO. 35:

All documents referring or relating to each of your decisions, if any, to delete and/or undelete any of your AdWords campaigns.

REQUEST FOR PRODUCTION NO. 36:

All documents referring or relating to each of your decisions, if any, to cancel advertising purchased from Google.

REQUEST FOR PRODUCTION NO. 37:

All documents referring or relating to Ad Scheduling.

REQUEST FOR PRODUCTION NO. 38:

All documents referring or relating to AdWords campaigns for your website.

REQUEST FOR PRODUCTION NO. 39:

All documents constituting correspondence or communications between you and Google relating to advertising.

REQUEST FOR PRODUCTION NO. 40:

All documents constituting correspondence or communications between you and entities or individuals other than Google relating to online and/or offline advertising.

REQUEST FOR PRODUCTION NO. 41:

All documents constituting correspondence or communications between you and Google relating to payments for advertising.

REQUEST FOR PRODUCTION NO. 42:

All documents constituting correspondence or communications between you and entities or individuals other than Google relating to payments for online and/or offline advertising.

REQUEST FOR PRODUCTION NO. 43:

All documents constituting correspondence or communications regarding Google.

REQUEST FOR PRODUCTION NO. 44:

All documents constituting correspondence or communications regarding AdWords.

REQUEST FOR PRODUCTION NO. 45:

For each purchase made by customers on your website, all documents sufficient to show the date and time of the purchase, and the amount of the purchase.

REQUEST FOR PRODUCTION NO. 46:

All documents which show traffic (visitors, unique visitors, purchases, etc.) on your website, whether generated by you or a third party.

REQUEST FOR PRODUCTION NO. 47:

All documents referring or relating to statistics, volume, purchase reports or other information regarding visitors and unique visitors to your website, whether generated by you or a third party.

REQUEST FOR PRODUCTION NO. 48:

All documents referring or relating to website analytics for your website, whether generated by you or a third party.

REQUEST FOR PRODUCTION NO. 49:

All documents constituting communications between you and any entity or individual responsible for tracking, analyzing or monitoring visitors to your website and/or purchases made on your website.

REQUEST FOR PRODUCTION NO. 50:

For each product and/or service you currently sell and/or have sold at any time, all documents referring or relating to and/or tracking purchases and sales of those products and/or services, including but not limited to, purchase reports, sales volume reports, sales volume estimates, on a daily, weekly, monthly, quarterly and/or annual basis.

REQUEST FOR PRODUCTION NO. 51:

For each product and/or service you currently sell and/or have sold at any time, all documents constituting customer orders for purchase of the product sufficient to show the date the product and/or service was purchased, the amount of the purchase and the products and/or services purchased.

REQUEST FOR PRODUCTION NO. 52:

All documents referring or relating to your sales volume.

REQUEST FOR PRODUCTION NO. 53:

All documents referring or relating to demand for each product and/or service you currently sell and/or have sold at any time.

REQUEST FOR PRODUCTION NO. 54:

All documents referring or relating to your fulfillment of purchase orders.

REQUEST FOR PRODUCTION NO. 55:

All documents constituting or relating to communications between you and your customers regarding your inability to deliver or provide product(s) and/or services your customers purchased.

REQUEST FOR PRODUCTION NO. 56:

All documents referring or relating to your inability to fulfill orders from your customers.

REQUEST FOR PRODUCTION NO. 57:

All documents referring or relating to your inventory.

REQUEST FOR PRODUCTION NO. 58:

All documents constituting shipping or delivery records for products and/or services delivered to customers who placed orders through your website.

REQUEST FOR PRODUCTION NO. 59:

All documents constituting shipping or delivery records for products and/or services delivered to customers who placed orders through means other than your website, including but not limited to, via mail, telephone and/or in person.

REQUEST FOR PRODUCTION NO. 60:

All documents constituting or reflecting every advertisement you have purchased and/or placed, including online advertising and offline advertising.

REQUEST FOR PRODUCTION NO. 61:

All documents constituting or relating to communications between you and your customers regarding reasons for their purchases.

REQUEST FOR PRODUCTION NO. 62:

All documents constituting or relating to surveys and/or questionnaires (including but not limited to the surveys and/or questionnaires and/or any responses thereto) you sent to your customers regarding reasons for their purchases.

REQUEST FOR PRODUCTION NO. 63:

All documents constituting or relating to communications between you and your customers regarding how they were directed to your website.

REQUEST FOR PRODUCTION NO. 64:

All documents constituting surveys and/or questionnaires (including but not limited to the surveys and/or questionnaires and/or any responses thereto) you sent to your customers regarding how they were directed to your website.

REQUEST FOR PRODUCTION NO. 65:

All documents relating to hosting, managing or otherwise maintaining your website.

REQUEST FOR PRODUCTION NO. 66:

All documents constituting correspondence or communications with entities or individuals responsible for hosting, managing or otherwise maintaining your website.

REQUEST FOR PRODUCTION NO. 67:

All documents constituting correspondence or communications with entities or individuals responsible for purchasing advertising on your behalf.

REQUEST FOR PRODUCTION NO. 68:

All documents upon which you rely in support of your claim that you sustained damages or other injury as a result of the conduct of Google as alleged by you in this action.

REQUEST FOR PRODUCTION NO. 69:

All documents relating to damages or other injury you claim to have sustained as a result of the conduct of Google as alleged by you in this action.

REQUEST FOR PRODUCTION NO. 70:

All documents referring to, relating to, or constituting ledgers, spreadsheets, software, accounting tools or other records you use to track revenue from advertising placed using Google.

REQUEST FOR PRODUCTION NO. 71:

All documents referring to, relating to, or constituting ledgers, spreadsheets, software, accounting tools or other records you use to track revenue from online and/or offline advertising placed using entities or individuals other than Google.

REQUEST FOR PRODUCTION NO. 72:

All documents referring to, relating to or constituting ledgers, spreadsheets, software, accounting tools or other records you use to track customer order fulfillment.

REQUEST FOR PRODUCTION NO. 73:

All documents referring to, relating to or constituting ledgers, spreadsheets, software, accounting tools or other records you use to determine: (1) whether to pause and/or unpause Ad Campaigns and/or Ad Groups; (2) whether to delete and/or undelete Ad Campaign or Ad Group; and (3) whether to use Ad Scheduling.

REQUEST FOR PRODUCTION NO. 74:

All documents constituting your profit and loss statements, balance sheets, and financial summaries.

REQUEST FOR PRODUCTION NO. 75:

All documents referring or relating to other actions in which you or any officer, director or shareholder have been a party.

REQUEST FOR PRODUCTION NO. 76:

All documents upon which you rely in support of your claim that you have standing to sue under Bus. & Prof. Code §§ 17200 and 17500 as a person who has "suffered injury in fact and ... lost money or property" as a result of the conduct of Google.

DATED: July 22, 2008

PERKINS COIE LLP

By: ______________________
David P. Chiappetta

Attorneys for Defendant Google, Inc.

PROOF OF SERVICE

I, the undersigned, declare:

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action; my business address is 4 Embarcadero Center, Suite 2400, San Francisco 94111-4131.

On July 22, 2008, I served the foregoing document(s) described as follows:

DEFENDANT GOOGLE, INC.'S REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF HOWARD STERN (SET TWO)

on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as stated on the attached service list, as follows:

☐ BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Francisco, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ BY FEDERAL EXPRESS OR OVERNIGHT COURIER

☒ BY ELECTRONIC MAIL
I caused said documents to be prepared in portable document format (PDF) for e-mailing and served by electronic mail as indicated on the attached service list.

Executed on July 22, 2008, at San Francisco, California.

☐ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ (Federal) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Linda Alcorn

SERVICE LIST

CLRB Hanson Industries, LLC v. Google, Inc.
U.S. District Court, Northern District of California, San Jose Division
Case No. C 05-03649 JW

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